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Carlin, Carlin & Hall and Geo. B. Vest, all of Alexandria, for plaintiff in error.

Edmund Burke, of Washington, D. C., for defendant in error.

VIRGINIA RY. & POWER CO. *v.* DRESSLER.

March 16, 1922.

[111 S. E. 243.]

1. Carriers (§ 320 (1*))—Whether Place of Accident Was Proper Transfer Point for Injured Passenger Held for the Jury.—Whether the place of an accident was a proper transfer point for an injured passenger, notwithstanding the regulations of street railway company to the contrary, held to be a question for the jury.

2. Carriers (§ 269*)—Street Car Passenger Can Assume Transfer Given without Comment Was the One Called for.—Where a passenger asked a street car conductor for a transfer from a given point for a given direction, and he punched a transfer and handed it to her without objection or comment, she had the right to assume that the conductor had complied with her request, and that the transfer was one that she could use,

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 698.]

3. Carriers (§ 320 (2*))—Whether Person Transferring to Another Street Car Is a Passenger Is Question of Law if Facts Are Undisputed.—The question whether a person, while in the street for the purpose of transferring from one street car to another, is a passenger, is a question of law where the facts are undisputed, so that it was error to submit such question to the jury.

4. Courts (§ 107*)—General Expressions in Opinion Are to Be Taken in Connection with the Case in Which They Are Used.—In determining the authority of precedents, general expressions used in an opinion are to be taken in connection with the case in which they are used, and, though such expressions are entitled to respect, they are not controlling.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 694.]

5. Carriers (§ 247 (5*))—Person Transferring to Another Street Car Is Not a Passenger after Reaching Place of Safety.—A person who has alighted from a street car for the purposes of transferring to another car and has reached a place of safety on the highway or the sidewalk, so that the street car company has no control over her movements or over provisions for her safety, is not a passenger to whom the street car company owes the high degree of care of a

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

carrier to its passenger, but is entitled only to the same degree of care from the street car company as any other pedestrian upon the highway.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 722.]

6. Appeal and Error (§ 1178 (6)*)—Cause Remanded for Determination of Question of Negligence and Proximate Cause Only.—Where a judgment must be reversed because the case was submitted to the jury on the erroneous theory that plaintiff was a passenger at the time of her injury, the verdict established plaintiff's freedom from contributory negligence and the amount of the damages, so that, under Code 1919, § 6365, the case will be remanded, with directions to submit only question whether defendant failed to exercise toward plaintiff the degree of care it owed to a pedestrian, and whether such failure was the proximate cause of plaintiff's injuries.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 632.]

Error to Hustings Court of Richmond.

Action by Naomi C. Dressler against the Virginia Railway & Power Company to recover damages for personal injuries. Judgment for the plaintiff, and defendant brings error. Reversed and remanded, with directions to impanel a jury to determine whether defendant was negligent, and whether such negligence was the proximate cause of plaintiff's injury.

E. R. Williams and *T. Justin Moore*, both of Richmond, for plaintiff in error.

Fulton & Wicker and *J. M. Turner*, all of Richmond, for defendant in error.

CANADA et ux. v. C. H. BEASLEY & BROS.

March 16, 1922.

[111 S. E. 251.]

1. Sales (§ 17*)—Creditor Held Not Entitled to Sue Wife of Bankrupt for Goods Supplied to Business Managed by Bankrupt.—Defendant transferred his land and goods to his wife for a nominal consideration, but remained in control and possession. Plaintiff sold him goods on credit. Defendant's wife retransferred the land and goods to defendant, who selected and set apart the land as his homestead exemption and became a bankrupt. Plaintiff entered the bankruptcy proceedings and shared in the distribution. In a suit by him seeking to subject the homestead to his claim remaining unpaid, on the theory

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.